

**NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
AHMEDABAD**

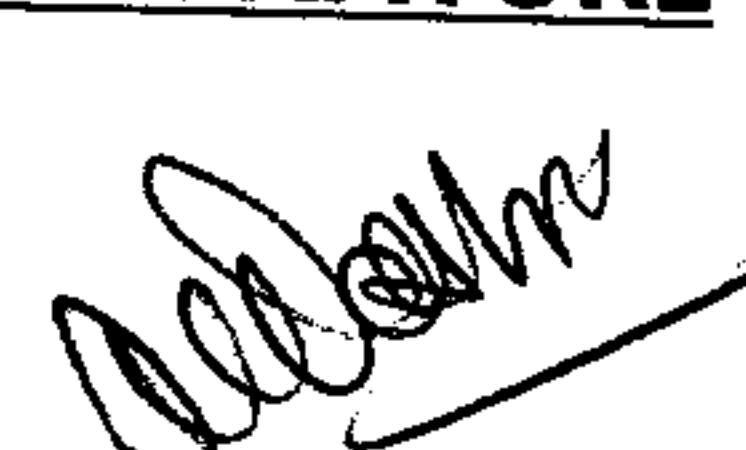
Co. Appeal No. 252/252(3)/NCLT/AHM/2018

Coram: **Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH  
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 19.09.2018**

Name of the Company: Manish Tiwari  
(Kanakdhara Bhuildinfra Pvt Ltd)  
V/s.  
ROC, Gwalior, MP.

Section of the Companies Act: Section 252(3) of the Companies Act, 2013

| <u>S.NO.</u> | <u>NAME (CAPITAL LETTERS)</u> | <u>DESIGNATION</u> | <u>REPRESENTATION</u> | <u>SIGNATURE</u>  |
|--------------|-------------------------------|--------------------|-----------------------|---|
| 1.           | es Ashish c Doshi             | PCS                | Applicants            |  |
| 2.           |                               |                    |                       |   |

**ORDER**

PCS Mr. Ashish Doshi is present for the Appellant.

The Order is pronounced in the open court, vide separate sheet

  
**MANORAMA KUMARI  
(MEMBER JUDICIAL)**

Dated this the 19<sup>th</sup> day of September, 2018

**BEFORE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH**

**Co. Appeal No. 252/252(3)/NCLT/AHM/2018**

**In the matter of:**

**M/s. Kanakdhara Buildinfra Private Limited**

**In the matter between:**

Mr. Manish Tiwari  
C/o. Kanakdhara Buildinfra Private Limited  
203, Orbit, 305-306  
Scheme No. 4, P.U. 4  
INDORE 452 018 (M.P.) : Appellant

**Versus**

Registrar of Companies,  
IIIrd Floor, 'A' Block,  
Sanjay Complex,  
Jayendraganj  
Gwalior (M.P.) Respondent

**Order delivered on 19<sup>th</sup> September, 2018**

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)**

**Appearance:**

PCS Mr. Ashish Doshi is present for the appellant.  
Advocate Mr. Nachiket D. Mehta is present for the Income Tax  
Department

**ORDER**

**[ (Per: Ms. Manorama Kumari, Member (Judicial) ]**

1. By this Appeal, the Company namely, M/s. Kanakdhara Buildinfra Private Limited, seeks for restoration of its name in the Register of the ROC. The Registrar of Companies, Gwalior, Madhya Pradesh ["ROC" for short] by its impugned order dated 09.06.2017 has struck off the name of the company. Being aggrieved with this action the appellant being



director/shareholder of the company has prayed for the following relief: -

- (i) please direct ROC, Gwalior to restore the name of the company in the Register of Companies;**
- (ii) permit the company to file pending annual returns and financial statements;**

2. The facts in brief, those are necessary for disposal of the present Appeal are stated as under;
3. It is stated that the ROC vide its Public Notice No. ROC-G/248(5)/2017/2915 dated 09.06.2017 (issued in Form No. STK-7) followed by final notice (issued under sub-section (5) of Section 248 of the Companies Act, 2013), has struck off the name of the Company from the Register of Companies with effect from 09.06.2017 inter alia on the ground that the Company has not filed annual returns and balance sheet since incorporation nor it made any application to the ROC within such period for obtaining the status of dormant company under Section 455.
4. It is submitted by the appellant that the company is incorporated to carry on the business of constructors, designers, developers of new or existing and to purchase any new existing job of resigning, re-flooring, repairing etc.
5. The appellant has submitted that, the company has been preparing statutory returns and documents since incorporation, however, due to inadvertence and clerical omissions, the same could not be submitted with ROC The appellant has further submitted in the appeal that the company shall file all outstanding statutory documents along with fee/additional fee as applicable on the date actual filing.



6. The appellant company was incorporated on 11<sup>th</sup> May, 2012 with the Registrar of the Companies, Gwalior having its registered office at 203, Orbit, 305-306. Scheme No. 54, P.U.4 Indore 452 018 Madhya Pradesh.
7. In the present appeal, representation of ROC, Gwalior dated 20<sup>th</sup> June, 2018 is received, wherein it is averred that the appeal may be considered on merits subject to filing of balance sheet since incorporation with additional fees as per the requirement of the Companies Act, 2013/1956.
8. The representation of Income-tax Department is received through its learned lawyer. During hearing, learned lawyer appearing on behalf of the appellant submitted that the company is ready to file income tax returns or pay any dues of the Income Tax Department.
9. The Appellant has filed the present appeal under Section 252(3) of the Companies Act as being director/shareholder of the company and he is entitled to file the same seeking for restoration of the name of the Company. Therefore, the present Appeal is found maintainable. Further the name of the Company, M/s. Kanakdhara Buildinfra Private Limited, was struck off on 09.06.2017 from the Register of Companies and the same was got published in the Gazette of India. While the present Appeal is filed on 27<sup>th</sup> April, 2018, hence the Appeal is filed well within limitation.

*J. Kumar*

10. On perusal of the material available on record, the main reason shown for striking off the name of the Company is that the Company failed to file its Annual Returns and Balance Sheets with the Registrar of Companies since incorporation.
11. Considering all the aforesaid aspects, this Tribunal is of the considered view that it is just and equitable to restore the name of the Company M/s. Kanakdhara Buildinfra Private Limited in the Register of Companies maintained by the ROC, Gwalior, Madhya Pradesh.
12. In view of the above, the instant Appeal is allowed and the Registrar of Companies, Gwalior, Madhya Pradesh is directed to restore the name of the Company in the Register of Companies upon Appellant's complying with the following conditions;
  - (i) The Appellant shall file all over due statutory returns with fee and additional fee as required under the Companies Act; and other laws within stipulated period stated therein, or within 90 days from the receipt of an authentic copy of this order and after restoration of its name in the Register of ROC, Gwalior.
  - (ii) The Appellant shall publish a Notice in leading newspapers circulating in the District as well as in the Official Gazette of the Government of India with regard to the restoration of the name of the Company in the Register of Companies maintained by the Office of the Registrar of Companies,

*Kumar*

as per the draft notice approved by the Registrar of Companies at the expenses of the Appellant;

- (iii) The Appellant is further directed to pay an amount of Rs. 25,000/- to the Central Government, Ministry of Corporate Affairs through the Office of the ROC by way of Demand Draft drawn on Nationalised Bank towards the cost incurred by the Government in striking off the name of the Company, within 3 (three) weeks from the date of receipt of an authentic copy of this order and shall file compliance.

13. The Appeal stands disposed of accordingly.



**Ms. Manorama Kumari**  
**Member (Judicial)**